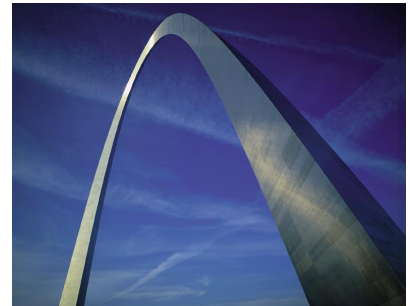


December 2004

VAT Developments in Financial Services



Denmark: Guidelines Calculation Pro Rata Deduction Published

In July 2003 the Danish Central Customs and Tax Administration abolished the financial sector's calculation method of the pro rata deduction. After extensive discussions with the Danish Bankers Association, guidelines were published on how to calculate the total turnover in banks when computing the pro rata. The publication is dated 25 November 2004. These guidelines come into effect as of the final calculation for the accounting year 2004 and give an interesting view on the tax administration's point of view.

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Hungary: VAT Grouping Rules

As of 1 January 2005 the Hungarian branch of a foreign entity will be allowed to be a member of a Hungarian VAT group, as opposed to the current situation, in which only Hungarian registered companies as defined by the Companies Act can be VAT group members. This change in VAT grouping rules gives new opportunities to reallocate or to outsource services without being hit by VAT.

The membership criteria will be relaxed. A tax shortfall above a certain threshold at a VAT group member will no longer result in the loss of VAT group membership. However, the condition that a VAT group can only be formed by taxable persons, who do not have a tax shortfall above a certain threshold within the terms of limitation will continue to apply.

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Italy: Tax Authorities View on Factoring

The Italian Tax Authorities issued a Resolution Letter on 17 November 2004 expressing their opinion on the Italian VAT treatment applicable to factoring. In Short, the Italian Tax Authorities have stated that, in order to apply the correct VAT treatment to the factoring agreements, it is necessary to verify the agreement's purpose on a case-by-case basis.

In particular if the agreement's purpose is for the creditor to obtain a management of his credits by the factor, mainly aiming at their collection, the transaction has to be qualified as "debt collection" and, as such, it is VAT taxable. On the contrary, in case the creditor, by drawing up a factoring agreement, intends to obtain a loan by the factor, which the former pays a commission for - to be considered as an interest payment -, the factoring then represents a real VAT exempt "financial transaction". In such a case, the presence of different clauses, "pro soluto" or "pro solvendo", does not affect the agreement's financial nature.

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Luxembourg: Scope VAT Exemption SICARs and Securitisation Vehicles Extended

In March and June 2004, the Luxembourg VAT law has been amended by two laws setting a legal framework for SICARs (companies investing in private equity and venture capital) and securitisation vehicles in Luxembourg. These two laws extended the scope of the VAT-exemption of management services rendered to special investments funds to include management services carried out for SICARs and securitisation vehicles.

The Luxembourg VAT authorities have not yet issued official guidelines as to what must be understood by management services of SICARs and securitisation and is not expected to do so in a near future. One could therefore take the same approach as for other investment funds like SICAVs and FCPs.

The scope of the exemption for management of such funds is much broader in Luxembourg than in many other Member States since it includes not only the services related to the investment policy or the issuing, sale or re-purchase of fund shares but also all administrative services relating to the day-to-day management of the funds like computation of the Net Asset Value, transfer agent, custody services, etc.

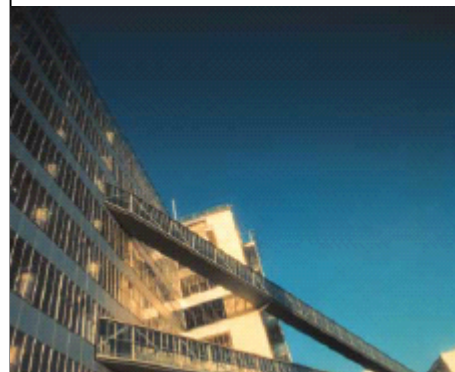
By analogy, one can therefore consider that all services rendered to SICARs and securitisation vehicles and relating to their day-to-day management (investment advice, administrative services, services of trustees, depository banks, etc) will be exempt in Luxembourg. One should however pay particular attention to the Abbey National case (pending with the ECJ) which might in the future narrow the scope of this exemption.

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Clients receiving this FS VAT Alert should take no action without first contacting their usual PricewaterhouseCoopers Indirect Tax adviser. If you would like to share your views on this FS VAT Alert, please contact Frans Oomen at frans.oomen@nl.pwc.com.



**Luxembourg widens
scope of VAT
exemption for fund
management**